



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appl. No.: 09/966,538
Applicant: Guy Riddle
Filed: September 26, 2001
Title: Dynamic Partitioning of Network Resources

Docket No.: 6533/53640
Customer No.: 30505

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

RESPONSE TO INFORMATION REQUIREMENT

Sir:

In response to the Information Requirement mailed June 18, 2007, please consider the following remarks and information.

1. As to Page 3, Paragraph 1 of the Information Requirement, PacketShaper Reference Guide Version 3.1 was first published in June 1998. The claimed subject matter was first embodied in Version 5.1 of the PacketWise software, as indicated in Release Notes to PacketShaper® PacketWise Version 5.1 at page 9. As the version history indicates, version 5.1 was released in May 2001.

Version 5.1 of the PacketWise software, however, does not qualify as prior art under 35 U.S.C. § 102(a) or (b) since Version 5.1 embodies the work of the inventor identified in the instant application, and the present application was filed prior to one year of the May 2001 release of Version 5.1. Furthermore, as is relevant to the claimed subject matter, the prior versions of the PacketWise software are essentially cumulative to the art of record and the description of prior art described in the Background of the Invention section of the specification. Accompanying this response is a form PTO-1449

including the approximate publication dates for the manuals and release notes for PacketShaper/PacketWise versions 3.1 to 5.1.2. Also accompanying these response are the manuals and release notes for PacketShaper/PacketWise versions 3.1 to 5.1.2. After internal investigation, Packeteer was unable to locate copies of manuals for versions prior to version 3.1. As to publication dates for versions 1.0 to 3.0, Applicant encloses herewith, as Exhibit A, a PDF copy of a form 424B1 filed with the Securities and Exchange Commission on July 28, 1999. The form 424B1 indicates the releases of versions 1.1 to 4.1 by quarter and year.

2. As to Page 3, Paragraph 2 of the Information Requirement, the claimed subject matter has been embodied in software sold under the trade name "Packetwise", and embodied in devices sold under the tradename "PacketShaper."

3. As to Page 3, Paragraph 3 of the Information Requirement, after reasonable inquiry, it is unknown or not readily available the exact dates of any advertising and promotional literature prepared for any goods or services in which the claimed subject matter has been embodied and was specifically described in such advertising or promotional literature. Generally, Packeteer has offered its devices and software in a series of releases that represent improvements to, or expansions of, the previous iteration of the product. Generally, each release is not offered for sale, nor is product manual information published, until its official release. The claimed subject matter was first embodied in Version 5.1 of the PacketWise software, as indicated in Release Notes to PacketShaper® PacketWise Version 5.1 at page 9. As the version history indicates, version 5.1 was released in May 2001, which is well within a year of the filing date of the

instant application.

4. As to Page 3, Paragraph 4 of the Information Requirement, the information required to be submitted is unknown to or is not readily available to the party or parties from which it was requested. There have been numerous articles describing Packeteer's products generally, but none known to Applicants that describe the claimed subject matter specifically.

5. As to Page 3, Paragraph 5 of the Information Requirement, the claimed subject matter is an improvement to the bandwidth partitioning mechanisms embodied in Applicant's commercial products, which (prior to the claimed subject matter) supported so-called "static" partitions. State partitions are described in the Background of the Invention section of the specification. The improvement is captured in part by reference to the Specification at page 4, line 11 to page 5, line 22. As described in connection with the embodiments of the invention disclosed in the Specification, dynamic partitions allows for more flexible resource allocation schemes. As the Release Notes to PacketShaper® PacketWise Version 5.1 describe:

With PacketWise 5.1's new dynamic partition feature, subpartitions are created on the fly as users become active in a traffic class. This capability allows service providers or enterprise customers to guarantee a user a minimum amount of bandwidth at all times. This strategy is useful when a small portion of users will be active in any given time period.

See Release Notes to PacketShaper® PacketWise Version 5.1 at page 9.

6. As to Page 3, Paragraph 6 of the Information Requirement, filed herewith are copies of manuals covering PacketWise software for PacketShaper versions 3.1 o 5.1.2.

Applicant ws not able to locate manuals and release notes prior to version 3.1.

7. As to Page 3, Paragraph 7 of the Information Requirement, any written descriptions or analyses, prepared by the inventor or assignee, of goods or services in competition with the goods or services the claimed subject matter has been embodied, where such written descriptions or analyses discuss the claimed subject matter, is unknown to or is not readily available to the party or parties from which it was requested.

8. As to Page 3, Paragraph 8 of the Information Requirement, Applicant objects to the request since it does not identify what publication for which an explanation of technical material is required. Furthermore, the existence of any publications of the inventor or explanations of technical matter relating to the claimed subject matter is unknown to or is not readily available to the party or parties from which it was requested.

9. As to Page 3, Paragraph 9 of the Information Requirement, Applicant submits herewith PTO Form 1449 including the additional U.S. patents owned by Applicant that are related to the disclosure and claimed subject matter; however, as is relevant to examination of the claimed subject matter, the cited patents are essentially cumulative to the art of record and the description of prior art described in the Background of the Invention section of the specification.

10. As to Page 3, Paragraph 10 of the Information Requirement, Applicant objects to the request since it does not specifically identify what information is requested.

Additionally, other factual information pertinent to patentability of the claimed subject matter is unknown to or is not readily available to the party or parties from which it was requested.

11. As to Page 3, Paragraph 11 of the Information Requirement, the U.S. patents referred to above in paragraph 9 were consulted during preparation of the instant application.

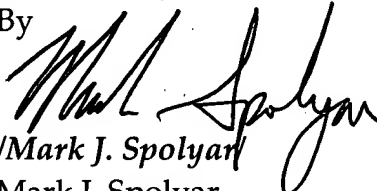
In light of the foregoing, Applicant believes that all currently pending claims are presently in condition for allowance. Applicant respectfully requests a timely Notice of Allowance be issued in this case. If the Examiner believes that any further action by Applicant is necessary to place this application in condition for allowance, Applicants request a telephone conference with the undersigned at the telephone number set forth below.

Date: August 3, 2007

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Respectfully Submitted,
LAW OFFICE OF MARK J. SPOLYAR

By



/Mark J. Spolyar

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